

DOCKET SECTION

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

Docket No. R97-1

Postal Rate And Fee Changes, 1997

**MOTION OF ALLIANCE OF NONPROFIT MAILERS
TO COMPEL ANSWERS TO INTERROGATORY OR
STRIKE TESTIMONY
(ANM/USPS-17)
(November 17, 1997)**

The Alliance of Nonprofit Mailers ("ANM") hereby moves to compel the Postal Service to answer an interrogatory, ANM/USPS-17, filed and served by ANM on November 7, 1997, or to strike all testimony that includes, involves, or relies on the materials the interrogatory inquires about. The Postal Service's objections to this interrogatory reflect, as did its objections to Interrogatories ANM/USPS-1 through 16, the Service's continuing attempt to shift the burden of documenting and verifying the its rate request from itself to the intervenors and the Commission. Fundamental norms of administrative due process, the Commission's long-established rules for documentation and discovery of rate cases, and Commission Orders 1200 and 1201 all dictate that the Postal Service answer the question.

ANM adopts by reference the arguments stated in its November 14 motion to compel the Postal Service to respond to ANM-USPS-1 through 16. With

particular respect to Interrogatory ANM/USPS-17, ANM adds the following points:

Interrogatory ANM/USPS-17 is based on the workpaper requirements set forth in Rule 54(o) of the Commission's Rules of Practice and Procedure, 39 C.F.R. §3001.54(o). Rule 54(o)(1) provides that "[w]henver the Service files a rate case it shall accompany the request with . . . workpapers." Rule 54(o)(4) provides, *inter alia*, that

Workpapers shall include citations sufficient to enable a reviewer to trace any number used but not derived in the associated testimony back to published documents, or, if not obtained from published documents, to primary data sources. Citations shall be sufficiently detailed to enable a review to identify and locate the specific data used, e.g., by reference to document, page, line, column, etc.

Accordingly, ANM/USPS-17 merely seeks information which the Postal Service was obligated to provide simultaneously with the filing of its testimony—*without awaiting other parties' discovery requests*.

The Postal Service's objection to the relevance of this information is frivolous. The Postal Service has not contended—and could not contend—that the concerns underlying Rule 54(o) are inapplicable to its belatedly offered testimony. Moreover, the "false premise" supposedly underlying the interrogatory—that "the items sought pertain to each testimony and library reference"—is a Postal Service invention. Interrogatory ANM/USPS-17 is limited to "numbers" set forth in "newly offered testimony" that the Postal Service "expects to sponsor into evidence" or "exhibits thereto." Likewise, the interrogatory by its terms requires no response for any number whose derivation is

already provided in the document in which the number appears.

The Postal Service's objection of undue burden is equally without merit. Merely dumping a "large volume of information" and "documentation" into the record as testimony or library references does not begin to satisfy the Postal Service's duty to make its studies and data comprehensible and verifiable to third parties, particularly within the extraordinarily tight deadlines normally imposed in rate cases. Rule 54(o) requires the Postal Service to provide a clear, step-by-step roadmap as well.

It is entirely proper that the burden of preparing this roadmap fall on the Postal Service rather than third parties. The testimony in question was prepared by or for the Postal Service, based on data that are uniquely within the Postal Service's control. For every number in the Postal Service's testimony or exhibits, there must be at least one Postal Service employee or consultant who knows how the number was derived; otherwise, the Postal Service would be incompetent to sponsor or rely on the number. Moreover, the Postal Service had knew, or should have known, that Rule 54(o) requires such a roadmap. Finally, unlike the intervenors, the Postal Service had exclusive control over the filing date of its case-in-chief, and had months or years to develop and document its underlying studies. If the Postal Service had prepared its workpapers in tandem with its testimony, the burden of doing so would have been minimal.

For the foregoing reasons, any additional burdens incurred by the Postal Service in remedying the gaps in its workpapers now are entirely self-inflicted, and merit no consideration by the Commission. Nevertheless, as ANM stated in its November 14 motion to compel, if responding to the interrogatory takes more

than seven days, ANM will consent to any additional time needed by the Postal Service—provided that these proceedings are stayed while the response is developed.

Respectfully submitted,



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November 17, 1997

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document on all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.



November 17, 1997